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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION**
21

22 SUNIL KUMAR, Ph. D., an individual;
and PRAVEEN SINHA, Ph. D., an
23 individual,

Plaintiffs,

24 v.

25 DR. JOLENE KOESTER, in her
official capacity as Chancellor of
California State University,
26 Defendant.

Case No. 2:22-cv-07550-RGK-MAA

**JOINT APPLICATION FOR
CLARIFICATION OF ADR
PROCEDURE AND/OR
EXTENSION OF ADR
COMPLETION DEADLINE**

Judge: R. Gary Klausner
Trial Date: October 24, 2023

BACKGROUND

On March 6, 2023, the Court referred this matter pursuant to ADR Procedure No. 1 to Magistrate Judge Audero, and set an ADR completion date of September 1, 2023, a date 45 days before the Final Pretrial Conference. ECF Nos. 82, 83; *see also* C.D. Cal. L.R. 16–15.2. On August 2, 2023, this Court set a trial on the briefs for October 24, 2023 (ECF No. 105), and vacated the Final Pretrial Conference (ECF No. 106.)

On August 7, 2023, counsel for plaintiffs and defendant presented to Judge Audero’s Deputy Clerk available dates for a pre-settlement call (August 8, 15, 22, and 29) and for a settlement conference (August 23 and August 30). Counsel for defendant followed up by voicemail on August 15, 2023 to ensure that the email had been received. On August 17, 2023, plaintiffs and defendant sent a follow up email to Judge Audero’s Deputy Clerk advising that the dates presented on August 7, 2023, remained available for both parties. The parties have not yet received a response regarding these dates.

On August 24, 2023, counsel for plaintiffs and defendant informed the Deputy Clerk by email and voicemail that the parties remain available for the previously proposed dates for a pre-settlement call (August 29) and for a Settlement Conference (August 30), and also provided an additional set of available dates for a settlement call (September 5, 19, or 26, or October 3, 10, 17 or 24) and for a settlement conference (September 20 or October 25).

REQUEST FOR CLARIFICATION AND/OR EXTENSION

The parties seek clarification from this Court as to whether the referral to ADR remains in effect, or if it was vacated by virtue of the order vacating the pre-trial conference. The parties note that they have conferred informally regarding settlement and agree that this case cannot be resolved by settlement – plaintiffs are not seeking monetary damages (absent statutory attorney’s fees if applicable), but are instead seeking a policy change (*i.e.*, removal of the word “caste” from CSU’s systemwide

1 non-discrimination policy), and defendant is not willing to change its policy absent a
2 Court Order.

3 To the extent the ADR reference remains in effect, the parties respectfully
4 request an order extending the ADR completion date to October 25, so the parties can
5 conduct the Settlement Conference process on the additional dates the parties recently
6 proposed to the Deputy Clerk.

7
8 Dated: August 24, 2023

OUARLES & BRADY LLP

9
10 Bv: /s/ Jeffrey P. Michalowski

11 RICHARD A. PAUL
12 JEFFREY P. MICHALOWSKI
13 MATTHEW W. BURRIS
14 ADRIELLI FERRER
Attorneys for Defendant

15 Dated: August 24, 2023

FOX ROTHSCHILD. LLP

16
17 Bv: /s/ John J. Shaeffer

18 JOHN J. SHAEFFER
19 MICHAEL K. TWERSKY (*pro hac vice*)
20 BETH WEISSER (*pro hac vice*)
21 Attorneys for Plaintiffs
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SIGNATURE CERTIFICATION

I certify that the content of this document is acceptable to John J. Shaeffer and that I have obtained authorization to affix his electronic signature to this document.

Dated: August 24, 2023

OUARLES & BRADY LLP

Bv: /s/ Jeffrey P. Michalowski
RICHARD A. PAUL
JEFFREY P. MICHALOWSKI
MATTHEW W. BURRIS
ADRIELLI FERRER
Attorneys for Defendant

DECLARATION

I, Jeffrey P. Michalowski, declare as follows:

1. I am a partner in Quarles & Brady LLP, attorneys of record for Defendant in the above-entitled matter, and am licensed to practice before this Court. I have personal knowledge of the following facts and, if called as a witness, could and would testify competently thereto.

REASONS FOR REQUESTED EXTENSION

2. On August 7, 2023, I emailed Judge Audero's Deputy Clerk the parties' available dates for a pre-settlement call (August 8, 15, 22, and 29) and for a settlement conference (August 23 and August 30).

3. On August 15, 2023, I followed up with the Deputy Clerk's office by voicemail to confirm that my August 7 email had been received.

4. On August 17, 2023, plaintiffs' counsel sent a follow up email to Judge Audero's Deputy Clerk advising that the dates presented on August 7 remained available for both parties.

5. The parties have not yet received a response regarding the dates of availability presented to the Deputy Clerk.

6. Earlier today (August 24, 2023), I informed the Deputy Clerk by email that the parties remain available for the previously proposed dates for a pre-settlement call (August 29) and for a Settlement Conference (August 30), and also provided an additional set of available dates for a settlement call (September 5, 19, or 26, or October 3, 10, 17 or 24) and for a settlement conference (September 20 or October 25).

7. Because the parties have not yet secured a date for a pre-settlement call and Settlement Conference, the parties jointly request this extension.

8. The parties are not requesting any change to the current briefing schedule or any other dates in this case.

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RESPONSE PER JUDGE’S PROCEDURES

9. In response to the “Judge’s Procedures” section of the website for Hon. R. Gary Klausner, there have not been any prior requests for continuances of any hearing dates, but the parties filed a Stipulation and Proposed Order to Stay Case Pending Resolution of Potentially Dispositive Cross-Motions for Judgment on the Pleadings on July 7, 2023 (ECF No. 96). This Court entered an Order re: Stipulation to Stay Case on July 25, 2023 (ECF No. 101) which stated that all deadlines associated with the October 31, 2023 trial remain unaltered, and provided the parties the option of electing a trial on the briefs under an amended briefing schedule. The parties elected the amended briefing schedule (ECF No. 104); and on August 2, 2023, the Court provided a Scheduling Notice (ECF No. 105) and vacated the Pretrial Conference (ECF No. 106).

* * *

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 24th day of August, 2023, at San Diego, California.

/s/ Jeffrey P. Michalowski
Jeffrey P. Michalowski